

ORDINANCE NO. 27

SERIES 2008

**AN ORDINANCE AMENDING ARTICLE 19-3
(STREETS; SIDEWALKS) OF THE TOWN CODE
TO INCLUDE REGULATIONS RELATIVE TO THE
HAULING, DUMPING AND STORAGE OF SNOW**

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the Town has broad constitutional and statutory powers to regulate the use of lands within its boundaries, including, without limitation, Town-owned property and public rights of way, streets and alleys;

WHEREAS, the Crested Butte Municipal Code of 1987, as amended (the "**Code**"), does not contain regulations regulating the hauling, dumping, transportation and storage of snow on Town-owned property and public rights or way, streets and alleys;

WHEREAS, the Town staff has found that the hauling, dumping, transportation and storage of snow on Town-owned property and public rights of way, streets and alleys has been source of conflict in the past as persons have at times conducted such activities in disregard of Town-adopted policies and in an otherwise inefficient and un-orderly manner;

WHEREAS, the Town staff has recommended that in order improve the efficiency and order of the hauling, dumping, transportation and storage of snow, the Town Council should adopt an ordinance designed to improve the efficiencies and order of such activities and establish enforcement mechanisms and penalties applicable to circumstances where persons fail to adhere to Town policies regarding such activities;

WHEREAS, the Town Council has determined that the efficient, orderly and safe hauling, dumping, transportation and storage of snow is important to the residents and visitors of Crested Butte and an essential piece of the Town's responsibility to keep public travel within Crested Butte safe and organized, and therefore it desires to amend the Code to include regulations that accomplish the aforesaid goals of Town staff;

WHEREAS, in conjunction with the Town Council's inclusion of said regulations in the Code, the Town Council will also adopt guidelines for the management of snow each year so as to further define the Town's policies in this regard; and

WHEREAS, the Town Council finds that the below amendments to the Code are in the best interests of the health, safety and general welfare of the residents and visitors of the Town and such amendments advance the aforestated goals of the Town staff and the Town Council.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amending the title of ARTICLE 19-3, TOWN STREETS; SIDEWALKS. The title of Article 19-3, TOWN STREETS; SIDEWALKS, is hereby amended to read as follows:

"ARTICLE 19-3, TOWN STREETS; SIDEWALKS; SNOW MANAGEMENT"

Section 2. Adding New Section 19-3-7 to Article 19-3. A new Section 19-3-7 is added to Article 19-3 and shall read as follows:

"Section 19-3-7. Snow Management.

(A) **Snow Management Guidelines.** The Town Council shall adopt Town guidelines ("**Snow Management Guideline**") that address, without limitation, the hauling, dumping, transportation and storage of snow in advance of each upcoming snow season. A current copy of the Snow Management Guidelines shall be kept and maintained in the office of the Town Clerk. The Snow Management Guidelines are adopted herein by this reference and shall be enforced by the Town Manager and/or his/her designee(s) under the terms set forth herein.

(B) **Hauling, Dumping, Transportation and Storage.** All hauling, dumping, transportation and storage of snow shall be undertaken as, when and where identified and described in the Snow Management Guidelines. No person shall dump, deposit or store snow on any Town-owned property, any public rights of way or on any street or alley, except as otherwise permitted by the Town in writing.

(C) **Prohibited Activities.** No snow from outside the Town's boundaries shall be dumped, transported, stored or otherwise deposited, for any period of time, within the Town, other than where passing through Town to destinations outside of Town, without the prior written permission of the Town. Snow permitted to be dumped and stored within the Town shall contain no foreign debris, trash or other materials. No petroleum products, foreign agents or hazardous substances and hazardous wastes (as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1802 and Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6902, *et seq.*, as amended) shall be used in the hauling, dumping and deposit of snow, other than as inherent in the function and operation of machinery used therefor.

(D) **Enforcement; Penalties.** No person shall haul, dump, transport or store snow without strictly compliance with the requirements of this Section, inclusive of the Snow Management Guidelines. Any person who violates this Section shall be guilty of a misdemeanor and subject to a maximum fine of \$1,000.00 per offense, or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Each day any such activity shall exist out of compliance with this Section shall be a separate offense hereunder. The Marshal's

Department or the Town Manager and/or his/her designee(s) may enforce the penalties provided hereunder, including, without limitation, by proper summons to appear in a court of competent jurisdiction. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or otherwise remove any violation of this Section. In the event that the Town elects to abate or remove such a violation, the Town's reasonable costs and expenses in conjunction with such abatement shall be properly chargeable to the offending person. No election by the Town to so abate a violation shall limit the responsibility or liability of the offending party or cause the Town to incur such responsibility or liability. Remedies provided in this Section are cumulative and concurrent and not intended to be exclusive and the same are in addition to all other rights provided at law and in equity."

Section 3. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 4. Savings Clause. Except as amended hereby, the Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 1ST DAY OF DECEMBER, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 15TH DAY OF December, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Alan Bernheltz, Mayor

ATTEST:


Eileen Hughes, Town Clerk

OFFICE OF THE ATTORNEY GENERAL
STATE OF MISSISSIPPI
JAN 10 1964